

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 839**

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**Introduced by Assembly Member Emmerson**

February 26, 2009

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An act to amend ~~Section~~ *Sections 14043.28 and 14104.5* of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 839, as amended, Emmerson. Medi-Cal ~~service providers;~~ ~~judicial: providers:~~ remedies.

**Existing**

(1) *Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons.*

*Existing law requires that health care providers apply to, and be certified by, the department prior to their participation in the Medi-Cal program.*

*Existing law allows the department, if specified conditions are met, to grant provisional provider status or preferred provisional provider status to an applicant or provider, and requires the department to terminate that status if any of specified grounds exist.*

*Existing law provides that, if an application for provisional provider status or preferred provisional provider status is denied under specified provisions, or that status is terminated under the provisions described above, the applicant or provider is prohibited from reapplying for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department for a period of 3 years from the date the application package*

*is denied or the provisional provider status is terminated, or from the date of the final decision following an appeal from that denial or termination, except as specified.*

*Existing law provides that, if an application for provisional provider status or preferred provisional provider status is denied based upon a conviction for specified offenses or acts, the applicant or provider is prohibited from reapplying for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department for a period of 10 years from the date the application package is denied or the provisional provider status or preferred provisional provider status is terminated, or from the date of the final decision following an appeal from that denial or termination.*

*This bill would delete the provisions that provide that the 3-year and 10-year prohibitions may begin from the date of the final decision following an appeal from that denial or termination.*

**Existing**

(2) Existing law requires the Director of Health Care Services to adopt procedures for the review of grievances or complaints filed by Medi-Cal service providers concerning the processing or payment of money that the provider alleges is payable under the Medi-Cal program. A provider ~~that~~ who complies with these procedures and is not satisfied with the director's decision regarding that claim may seek appropriate judicial remedies within a specified time period.

This bill would, instead, specify that the provider who has complied with these procedures may, within the time period prescribed in existing law, seek ~~either a writ of mandate or, if the claim meets the jurisdictional requirements, file a claim in small claims court.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 *SECTION 1. Section 14043.28 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 *14043.28. (a) (1) If an application package is denied under*
- 4 *Section 14043.26 or provisional provider status or preferred*
- 5 *provisional provider status is terminated under Section 14043.27,*
- 6 *the applicant or provider ~~may not reapply~~ shall be prohibited from*
- 7 *reapplying for enrollment or continued enrollment in the Medi-Cal*
- 8 *program or for participation in any health care program*

administered by the department or its agents or contractors for a period of three years from the date the application package is denied or the provisional provider status is terminated, ~~or from the date of the final decision following an appeal from that denial or termination~~, except as provided otherwise in paragraph (2) of subdivision (e), or paragraph (2) of subdivision (f), of Section 14043.26 and as set forth in this section.

(2) If the application is denied under paragraph (2) of subdivision (e) of Section 14043.26 because the applicant failed to resubmit an incomplete application package or is denied under paragraph (2) of subdivision (f) of Section 14043.26 because the applicant failed to remediate discrepancies, the applicant may resubmit an application in accordance with paragraph (2) of subdivision (d) or paragraph (2) of subdivision (f), respectively.

(3) If the denial of the application package is based upon a conviction for any offense or for any act included in Section 14043.36 or termination of the provisional provider status or preferred provisional provider status is based upon a conviction for any offense or for any act included in paragraph (1) of subdivision (c) of Section 14043.27, ~~the applicant or provider may not reapply~~ *shall be prohibited from reapplying* for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department or its agents or contractors for a period of 10 years from the date the application package is denied or the provisional provider status or preferred provisional provider status is terminated ~~or from the date of the final decision following an appeal from that denial or termination~~.

(4) If the denial of the application package is based upon two or more convictions for any offense or for any two or more acts included in Section 14043.36 or termination of the provisional provider status or preferred provisional provider status is based upon two or more convictions for any offense or for any two acts included in paragraph (1) of subdivision (c) of Section 14043.27, the applicant or provider shall be permanently barred from enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department or its agents or contractors.

(5) The prohibition in paragraph (1) against reapplying for three years shall not apply if the denial of the application or termination

1 of provisional provider status or preferred provisional provider  
2 status is based upon any of the following:

3 (A) The grounds provided for in paragraph (4), or subparagraph  
4 (B) of paragraph (7), of subdivision (c) of Section 14043.27.

5 (B) The grounds provided for in subdivision (d) of Section  
6 14043.27, if the investigation is closed without any adverse action  
7 being taken.

8 (C) The grounds provided for in paragraph (6) of subdivision  
9 (c) of Section 14043.27. However, the department may deny  
10 reimbursement for claims submitted while the provider was  
11 noncompliant with CLIA.

12 (b) (1) If an application package is denied under subparagraph  
13 (A), (B), or (D) of paragraph (4) of subdivision (d) of Section  
14 14043.26, or with respect to a provider described in subparagraph  
15 (B) of paragraph (2) of subdivision (e), or subparagraph (B) of  
16 paragraph (2) of subdivision (f), of Section 14043.26, or provisional  
17 provider status or preferred provisional provider status is terminated  
18 based upon any of the grounds stated in subparagraph (A) of  
19 paragraph (7), or paragraphs (1), (2), (3), (5), and (8) to (12),  
20 inclusive, of subdivision (c) of Section 14043.27, all business  
21 addresses of the applicant or provider shall be deactivated and the  
22 applicant or provider shall be removed from enrollment in the  
23 Medi-Cal program by operation of law.

24 (2) If the termination of provisional provider status is based  
25 upon the grounds stated in subdivision (d) of Section 14043.27  
26 and the investigation is closed without any adverse action being  
27 taken, or is based upon the grounds in subparagraph (B) of  
28 paragraph (7) of subdivision (c) of Section 14043.27 and the  
29 applicant or provider obtains the appropriate license, permits, or  
30 approvals covering the period of provisional provider status, the  
31 termination taken pursuant to subdivision (c) of Section 14043.27  
32 shall be rescinded, the previously deactivated provider numbers  
33 shall be reactivated, and the provider shall be reenrolled in the  
34 Medi-Cal program, unless there are other grounds for taking these  
35 actions.

36 (c) Claims that are submitted or caused to be submitted by an  
37 applicant or provider who has been suspended from the Medi-Cal  
38 program for any reason or who has had its provisional provider  
39 status terminated or had its application package for enrollment or  
40 continued enrollment denied and all business addresses deactivated

1 may not be paid for services, goods, merchandise, or supplies  
2 rendered to Medi-Cal beneficiaries during the period of suspension  
3 or termination or after the date all business addresses are  
4 deactivated.

5 **SECTION 1.**

6 *SEC. 2.* Section 14104.5 of the Welfare and Institutions Code  
7 is amended to read:

8 14104.5. Notwithstanding any other provision of law, the  
9 director shall by regulation adopt such procedures as are necessary  
10 for the review of a grievance or complaint concerning the  
11 processing or payment of money alleged by a provider of services  
12 to be payable by reason of any of the provisions of this chapter.  
13 After complying with these procedures, if the provider is not  
14 satisfied with the director's decision on his or her claim, he or she  
15 may not later than one year after receiving notice of the decision,  
16 file a petition for writ of mandate pursuant to Section 1085 of the  
17 Code of Civil Procedure in the superior court ~~or file a claim in~~  
18 ~~small claims court if the claim meets the jurisdictional~~  
19 ~~requirements.~~ This section shall be the exclusive remedy available  
20 to the provider of services for moneys alleged to be payable by  
21 reason of this chapter.

22 This section shall not apply to those grievances or complaints  
23 arising from the findings of an audit or examination made by or  
24 on behalf of the director pursuant to Sections 10722 and 14170.  
25 Article 5.3 (commencing with Section 14170) shall govern the  
26 grievances or complaints.